

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

SAVANNAH COLLEGE OF ART AND DESIGN, INC.,	:	
	:	
Plaintiff,	:	CASE No. <u>C-1-02-490</u>
	:	
vs.	:	Judge Beckwith
	:	
PHILIPPE HOUEIX,	:	Magistrate Hogan
	:	
Defendant.	:	AFFIDAVIT OF ATTORNEY IN SUPPORT OF AWARD OF FEE
	:	
	:	

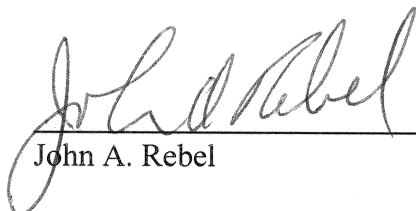
STATE OF OHIO] COUNTY OF HAMILTON] ss:

Being duly cautioned that the penalties for perjury could apply and being sworn, the undersigned, John A. Rebel, states the following to be true to his personal knowledge.

1. The undersigned represented Defendant in the above captioned matter.
2. Attached is an itemization of the time spent in representing Defendant. The itemization excluded time spent on Defendant's unsuccessful contract counter claim. It includes services performed on defense of the Lanham Act claims only.
3. The reasonable hourly rate for such services is \$ 165.00 per hour. The undersigned had no prior experience with trademark law or claims involving domain names.
4. The total time spent on the Lanham Act claims is 453.5 hours The reasonable attorney fee is \$ 74,827.
5. Substantial amounts of time were invested in legal drafting and research.
6. Approximately 110 hours of time were spent solely on the infringement About 20 hours of time was spent solely on the unfair competition claim. About 50 hours was

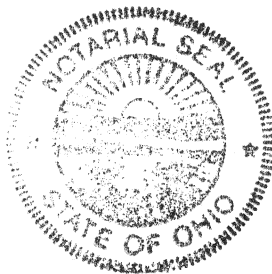
spent solely on freedom of speech issues such as the definition of commercial speech and advertisement. About 110 hours was spent on dilution alone. About 60 hours was spent on the cyberpiracy claim. About 70 hours were spent on trial preparation and trial, with about 25 hours on discovery.

Attached copies are all true and accurate copies.

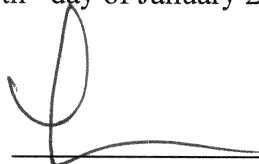


John A. Rebel

The foregoing affidavit was sworn to and signed before me by John A. Rebel, who is personally known to me, the undersigned notary, on this 4th day of January 2005.



LINDA SUSAN BOLIN, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date.
Section 147.03



Notary

Itemization of time spent by John A. Rebel on SCAD v. Houeix

<u>Date</u>	<u>Item</u>	<u>Time (Hr)</u>
11/23/2002	Conference with P. Houeix, of facts of his employment Summary Judgement/Complaint, Client'S Answer Review these pleadings	1.5 1.75
11/26/2002	Research 15 USC 1125, and case notes begin Amend. Answer and Counter Claim	 3.0
11/27/2002	Draft Answer and Counter Claim, review content	2.0
11/29/2002	call, draft Answer & Counter Claim, call Atty. Butler Prepare Notice of Appearance, Motion to Continue	2.5 1.5
12/2/2002	Computer research go thru scad.info web site	2.0
12/2/2002	Drafting, call, Motion for Leave to Amend	1.0
12/3/2002	Prepare Houeix' Affidavit contra SJM	6.0
12/5/2002	Revise Affidavit, Drafting, research file review ICANN administrative decision, prepare Notification of Representation, general reading in McCarthy Trademark	1.25 .5 7.0
12/6/2002	Conference with client review and discuss affidavit, file Motion Continuing SJM, and Notification drafting, review Houeix's notebook with letters and replies from accreditation groups, e-mails & letters from school. revise Motion for Leave	 1.5
12/9/2002	Revise Affidavit, Answer & Counter Claim	3.5
12/9/2002	Drafting Ans. & Cc.; Review McCarthy and trademarks	1.0
12/12/2002	Email, Affidavit, file Motion for Leave to Amend with Amd. Ans. & CC	 (3.0)
12/17/2002	read, Plaintiff's Summary Judgement Motion, out line	1.5
12/18/2002	internet search "SCAD" and print out of a few web home pages	1.25
12/18/2002	Case research, trademark records for scad, Obtain a few Secretary of State filings for scad Drafting	1.5 1.5
12/19/2002	Legal Research: <i>Northland Ins., Bihari McCarthy</i>	3.0
12/20/2002	Computer research, drafting	4.75
12/21/2002	Drafting, research Summary Judgement Motion	2.0
12/23/2002	Research, Drafting	3.0
12/30/2002	Search Engine research on scad, .infor, .edu number of schools at .edu, for affidavit	 2.0
1/3/2003	Draft and Research <i>P.E.T.AA., Johnson, Jew for Jesus, Mother Waddles,</i>	4.0
1/4/2003	Research <i>Planned Parenthood, Savin Corp, Checkpoint</i> and Draft	5.0
1/5/2003	Research <i>Therma Scan</i> and Draft Response to SJM	7.0

<u>Date</u>	<u>Item</u>	<u>Time (Hr)</u>
1/6/2003	Research and Draft on SJM	9.0
1/7/2003	Research and Draft on SJM	6.0
1/8/2003	Research and Draft on SJM	7.0
1/8/2003	Work at office on SJM response	2.5
1/9/2003	Work at home on SJM response	9.0
1/9/2003	Work at office on SJM	5.0
1/10/2003	Conference, research and draft on SJM	8.0
1/11/2003	Draft on SJM and Research, revise	5.0
1/12/2003	Draft on SJM and Research	12.0
1/13/2003	Draft on SJM/assemble file, proof read	4.0
1/14/2003	Daft and assemble file, proofread	9.5
1/15/2003	Motion to file late, Proofread and revise	2.0
1/16/2003	file Response to Mot for SJM	.25
<i>3/18/2003 to 3/21 15.5 hrs. excluded on Motion to Amend, contract counter claim</i>		
3/27/2003	Discovery request	.75
4/22/2003	calls, email, revise report	1.5
4/23/2003	calls	.25
4/24/2003	prepare preliminary pre-trial	2.0
5/01/2003	Conference	1.75
5/05/2003	Conference call and redo pleading	.75
<i>5/6/03/ - 9/22 5.0 hrs for Motion to Dismiss CC</i>		
11/17/2003	Discovery SCAD	1.5
1/9/2004	Review for Discovery	4.0
1/13 - 1/14	Work on Discovery	4.75
1/17/2004	Calls, revise discovery	5.0
1/28/2004	Conference, prepare and review for deposition	2.0
1/29/2004	Deposition, P. Houeix	8.0
	<i>Delete 3.0 hr for Counter claim discovery dealing with contract damages</i>	<i>(3.0)</i>
2/10/2004	conference and receipt, documents from SCAD	.75
2/11/2004	Prepare letter and documents for the email	1.75
2/28/2004	Conference and letter	3.0
4/3/2004	Calls and Conference	1.0
4/5/2004	calls	1.0
4/13/2004	Conference on settlement	1.5
<i>4/18 - 4/21 Time deleted for summary judgment on counterclaim 21 hrs also from above settlement conferences delete 1.0 hr</i>		
		<i>(1.0)</i>

<u>Date</u>	<u>Item</u>	<u>Time (Hr)</u>
7/22/2004	calls with other attorney on settlement	1.0
7/24/2004	Meeting with P. Houiex and info for settlement	1.75
7/26/2004	calls with Houiex	.75
8/21/2004	research cyberspiracy and case _____	.75
8/26/2004	pre-trial matter, file review, instruction	2.0
8/26/2004	calls, emails with Houiex	1.25
8/31/2004	Pre-trial statement review plaintiff's, uncontested fact	2.0
9/1/2004	Pretrial statement, revise facts	3.0
9/1/2004	Research, outline Summary Judgement Order	
	Motion order for, file, revise and draft defendant's case statement	
	for pretrial statement, revise controverted facts and law	7.0
9/3/2004	Pretrial, calls	.75
9/3/2004	Pretrial statement preparation	2.75
9/7/2004	calls	.5
9/8/2004	review pretrial statement and email	.75
9/9/2004	Review exhibits, mail exhibits and pretrial, letter	.75
9/10/2004	Email to Houiex on case and settlement	1.0
9/10/2004	list of exhibits	1.0
9/13/2004	Proof and revise pre-trial statement, email	1.75
9/17/2004	Read motions and draft begin response to In limine on	1.0
	Fraudulent process documents	
9/18/2004	Respnd In Limine Mot. research Rule 401 and 404, read cases	2.5
	on relevancy	
9/20/04	Finish In Limine Respond. Reaearch on cyberpiracy intent	7.0
9/21/200	Respond In Ilimine Mot. On 3 rd use, Research 3 rd party users dilution	
	and confusion revise email,	4.5
	Pre-trial	
9/21/2004	At home Research on numerous 3 rd party users, for confusion and dilution	1.5
9/22/2004	Research on numerous 3 rd party users, for confusion and dilution, drafting	
	Respons. To In Limine on 3 rd party users	5.0
9/22/04	At home research case law , draft	1.5
9/23/04	Finish response change to footnote form, ECF of responses, research	5.5
9/23/04	Call on pretrial stmt., download, read, check for changes, calls	3.0
	revise pretrial statement and e-mail	
9/24/04	Changes in pretrial statement review, revise, call, ECF, hand deliver	
	copies to court	2.0
9/25/04	File review, separate copies of caselaw on cyberpiracy dilution	6.0
	and confusion, review Ptlf's exhibit. List questions. Meet with client	
9/26/04	Case review with client, review exhibits, deposition, review	4.0
	trial procedure	
9/27/04	read <i>Moseley</i> , <i>Parsons</i> , 1115(b)(4) case notes fair use, read 1117	
	Dilution in commerce definition	3.0
9/28/04	Cinti. Library computer, obtain trademarks registered to xschool	.5
9/28/04	Pretrial	

<u>Date</u>	<u>Item</u>	<u>Time (Hr)</u>
9/29/04	Read numerous cases opening statement, conclusions of fact e-mail changes	8.0
9/30/04	research on protected commercial speech	4.5
10/1/04	Trial brief, fax the amended Pre-Trial Stmt, research <i>Hudson, Bolger</i>	6.5
10/02/04	Trial Brief research cases	6.25
10/03/04	Trial brief, obtain book tabs	6.5
10/04/04	e-mails, revise Trial Brief, (3.0) research assemble Exhibit books (1.5) File revised pretrial statement	10.0
10/05/04	Amend Pre-trial file review assemble Exhibits, conference	11.0
10/06/04	Trial preparation and trial	12.5
10/07/04	Trial preparation and trial conference with Houeix	10.
10/08/04	Conference on settlement with Houeix, e-mails	2.
10/07/04	Obtain McCarthy on Trademarks	.5
10/07/04	research cites in McCarthy	.75
10/11/04	call with Houeix on settlement	.75
10/12/04	e-mail settlement offer	.25
10/07/04	Respond to evidence motion on Exhb. 51	.5
10/19/04	draft Closing and legal research	8.0
10/19/04	Draft Closing and legal research	5.5
10/19/04	Conclusions of law research niche market cases	4.75
10/20/04	Draft Closing and legal research	1.0
10/20/04	Draft Closing conclusions of law and legal research niche fame	8.
10/20/04	Draft Closing conclusions of law and legal research @ home	3.0
10/21/04	Finish conclusions of law, define 1 st Amend commercial speech, reread Taubman	2.75
10/21/04	Findings of fact, begin	1.0
10/22/04	Read and out line transcripts	8.0
10/23/04	Read and out line transcripts	4.5
10/22/04	Read and out line transcripts	8.0
10/25/04	finish transcripts and notes	8.75
10/26/04	Draft findings of facts	3.5
10/27/04	Draft findings of facts	2.75
10/28/04	Draft findings of facts	8.
10/29/04	Draft Closing & findings of facts	8.
11/02/04	Draft Closing findings of facts	4.
11/03/04	Draft Closing argument , legal research	8.75
11/04/04	Draft Closing argument , revisions	5.
11/05/04	Draft Closing argument , check cites, proof read, revise	12.

Total time 453.5 hrs.